

USAWC STRATEGY RESEARCH PROJECT

**HEROES AND FOOLS – IMPROVING AUSTRALIAN CIVIL-MILITARY RELATIONS**

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The views expressed in this academic research paper are those of the author and do not necessarily reflect the official policy or position of the U.S. Government, the Department of Defense, or any of its agencies.

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## ABSTRACT

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The Australian Defence Force (ADF) has gained a position of trust in the Australian community. Australian citizens do not fear the lethal capability they afford the ADF, with good reason. The ADF has developed strong institutional norms that make it almost unthinkable that the military would act against the state. But civil-military relationship ailments can exist short of the extreme of a coup. There are shades of gray in the center of the civil-military relationship spectrum – wherein both politicians and soldiers fail to realize ideal civil-military relationship standards.

Ignorance by Australian politicians and military officers of the roles, behavioral constraints and professional expertise typifying sound civil-military relations has provided fertile ground for frustration and poor practices. But until now these problems have gone unnoticed: it appears that a simplistic view of civil-military relations, concerned with extremes rather than shades of gray, has allowed an insidious growth of lesser, but potentially destructive, damaging behavior. Recently, the so-called 'Child Overboard' affair caused the state of Australian civil-military relations to be questioned by the public, politicians and military professionals. Commentators opined that the military had become politicized: that the government had abused the position of the military for political partisan purposes and that senior military officers had allowed themselves to be abused.

This paper examines the health of Australian civil-military relations. It describes the generic norms underpinning a sound civil-military relationship, examines the causes and nature of Australian problems and recommends a set of guidelines aimed at improving Australian civil-military relations.



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## PREFACE

I would like to record my admiration for the Commander of the fledgling East Timorese Defence Force, Brigadier General Taur Matan Ruak. He spent most of his adult life fighting for independence as a guerrilla. Having won the campaign against Indonesia, he must now fight a different kind of war against those who would use Falantil's military power to shape the political future of East Timor. Without the benefit of formal professional military education, he has a clear understanding of the need to subordinate Falantil to the elected civilian government. There are few better civil-military relations role models.





## HEROES AND FOOLS – IMPROVING AUSTRALIAN CIVIL-MILITARY RELATIONS

The Howard Government reserves the right to make a hero of a general when it suits them and a fool of an admiral when it suits them and pawns of the whole Defence Force whenever it fits their convenience.

—Former Prime Minister Paul Keating

At first glance, the division of Australian civil-military responsibility seems clear: elected civil authorities set policy, military professionals provide advice and execute policy. This hierarchy reflects the essential principle in a liberal democracy's civil-military relationship - subordination of the military to the civil authority. Underpinning the relationship is the legitimacy provided by the Australian people. The public elects a government to represent them, providing it a mandate to determine national security policy. The public also provides the authority and capabilities required for the military to defend Australia's vital security interests.

The Australian Defence Force (ADF) has gained a position of trust in the Australian community, so the military is held in high regard. Australian citizens do not fear that the lethal capability they afford the ADF could be turned against them. And with good reason, as the ADF has developed strong institutional norms that make it almost unthinkable that the military would act against the state. But civil-military relationship ailments can exist short of the extreme of a coup. There are shades of gray in the center of the civil-military relationship spectrum – wherein both politicians and soldiers fail to realize ideal civil-military relationship standards.

This paper examines the health of Australian civil-military relations. It describes the generic norms that should be followed, examines the causes and nature of Australian problems and recommends a set of guidelines aimed at improving Australian civil-military relations. The paper begins by describing a situation that for the first time in years focused media and community attention on the state of the relationship between the Australian military and its government.<sup>1</sup>

### THE CHILD OVERBOARD AFFAIR

In the lead up to the November 2001 federal election, the incumbent conservative government took a popular hard line on refugees illegally entering Australia by boat from Indonesia. In a change of policy, the ADF was tasked to increase patrols in northern waters and to turn away refugees, rather than escort them to the nearest Australian port. On 6 October 2001, HMAS Adelaide intercepted a vessel suspected of carrying illegal immigrants.<sup>2</sup> The vessel (identified by the Navy as Suspected Illegal Entry Vessel 4, or SIEV 4) was ordered back

to Indonesia, but the crew refused to comply. A standoff ensued. During the next two days, before its passengers scuttled SIEV 4 and HMAS Adelaide rescued them, reports that asylum seekers threw or threatened to throw children into the water were passed up the chain of command. The Government was informed and immediately seized the opportunity to make public a strong condemnation of these threats of infanticide, to dramatize the pressures of illegal immigration. The issue played well politically, and the Prime Minister used it as evidence of the character of the illegal immigrant threat facing Australia. Appealing to the base fears of ordinary Australians, the issue helped swing the election campaign heavily in the Government's favor.

Despite initial reports to the contrary, it was known within the Navy shortly after 7 October that allegations of a child being thrown overboard were false.<sup>3</sup> This information was passed to ministerial staffers on 10 October, but it appears that the Government deliberately avoided hearing it. The Government continued to condemn asylum seekers. On 7 November, three days before polling day, *The Australian* newspaper published rumors that the allegations were untrue. Prompted by this report, acting Chief of the Defence Force (CDF) Air Marshal Angus Houston confirmed to Defence Minister Peter Reith that there was no evidence of children being thrown overboard.

On 8 November, a journalist asked the Chief of Navy, Admiral David Shackleton, if children had been thrown overboard. Admiral Shackleton answered truthfully. Later that day, at the direction of the Minister or his staff, Admiral Shackleton issued a 'clarification' recanting his earlier statement. Michael O'Connor characterizes this incident as "one of a series of attempts to suborn the ADF for political purposes".<sup>4</sup> O'Connor believes that the order to publish a retraction was clearly illegal<sup>5</sup> – it required the Chief of Navy to lie in order to further the Government's electoral prospects.

Minister Reith won his seat in the election and then resigned into a sinecure - allowing Prime Minister Howard to claim that the Minister, whom he described as a man of honor, had shielded him from knowing that the story was false.<sup>6</sup> Had the Prime Minister been forced to make an embarrassing admission immediately before the election, the Government's victory could well have been in doubt. The implications were not lost on the Labor Party, who instigated a series of inquiries. Senate Hearing questions were characterized by:

a desire to score political points. Government senators pointed to factors throwing doubt on Banks' [the Commanding Officer of HMAS Adelaide] account while suggesting Silverstone [Banks' immediate superior] was more credible... Against this non-government senators emphasised the credibility of Banks ... The credibility of two officers became a political football.<sup>7</sup>

O'Connor claims that:

There is also some evidence that ADF officers were badgered by ministers and ministerial staff to change their stories about SIEV 4 to accord with what ministers, in their enthusiasm, had falsely reported. This is unconscionable, as is the seeming willingness of at least one senior officer to do so.<sup>8</sup>

That senior officer was CDF Admiral Chris Barrie himself. Offering evidence to the Senate Hearing in February 2001, he contradicted Air Marshal Houston, saying that he stood by Defence's original allegation that a child had been thrown overboard. In Parliament, the Prime Minister almost gleefully claimed that the CDF's 'torpedo' had sunk Air Marshal Houston's 'exocet'.<sup>9</sup> But after the Hearing concluded a week later, anger within the ADF forced the CDF to call a press conference. CDF publicly retracted his evidence – through “inattention or poor judgment [he had] preferred to tell politicians what they wanted to hear rather than to adequately check a false story that suited the Government's election campaign strategy”.<sup>10</sup> The incident was more than a personal humiliation for the professional head of the ADF; it called into question the political independence of the senior military leadership. CDF's evidence had enabled the Government to close out the Senate Hearing on its own terms.

The truth or adequacy of reporting chains were not the key issues arising from the 'Child Overboard' affair; its significance resides in the problems it highlighted in Australian civil-military relations. Commentators opined that the military had become politicized - that the Government had tarnished military integrity for political partisan purposes and that senior military officers had allowed themselves to be abused. The affair brought “into the spotlight the importance of these conventions and the pressure they have been under not only in recent months but for some years”.<sup>11</sup>

## **A THEORETICAL REFERENCE POINT**

There is no shortage of maxims epitomizing the conventions of good civil-military relations – just as there have been no shortage of countries whose militaries have praetorian tendencies. The subject has been widely researched<sup>12</sup>, although there is a dearth of analysis of the Australian situation. However, the generic principles, norms and rules<sup>13</sup> proposed in the literature for United States, South American or eastern European civil-military relations provide a useful checklist for proposing guidelines suitable for Australia. Before assessing the extent of the civil-military relationship problem in Australia, it will be helpful to outline some basic tenets.

Fundamentally, in democracies the military has a responsibility to avoid becoming involved in partisan politics, and the government a similar obligation to protect the military from being involved. The onus is on the government to regulate this arrangement, for military officers' loyalty to government could easily be misconstrued as loyalty to a political party, rather

than to the constitution and government as representatives of the people. Thus governmental control of the military is not unfettered. Orders given to the military must be lawful, complying with international humanitarian law as well as domestic laws. Orders must also be passed from the responsible Minister to the commander of the military. Ministerial staff have no authority to give orders, nor should the Minister intervene in the chain of command to give directions.<sup>14</sup>

Douglas Bland has proposed one of the more comprehensive theories of civil-military relations. He suggests that his theory provides a basis for developing principles, norms and rules appropriate for a specific national circumstance. He argues that many civil-military theorists focus on the coup d'etat problem and thus ignore the minor but more common problems in regulating civil control over the military. This line of reasoning resonates within the Australian context. His theory rests on the notion that control of the military is a shared responsibility, as a kind of partnership. Politicians must wield positive control, but the attitude of military officers is also crucial to a successful relationship. This concept embodies the idea of political stewardship of the military, rather than coercive control. Bland calls this civil direction of the military.<sup>15</sup> Shared responsibility implies informed action – so both politicians and military officers need to be educated in their responsibilities and the bounds within which they act.

Civil direction, according to Bland, will only be successful if it is accompanied by a strong accountability mechanism. Bland discusses this both in terms of the civil authority holding military officers accountable against agreed standards (the norms of the relationship), and society holding the civil authority accountable.<sup>16</sup> Accountability is an essential safeguard against abuse of power. Successful civil-military relations, therefore, require constant management and attention – even monitoring.

Bland derives from this theory a set of principles, norms, rules and decision-making procedures. His work offers a useful menu from which Australian guidelines can be drawn. The strength of his proposals as a universal theory lies both in their comprehensiveness and specificity; they are therefore difficult to summarize. As a reference for the Australian circumstance however, the following are particularly relevant.<sup>17</sup>

## PRINCIPLES

- Legitimacy is drawn from the democratic processes embodied in the state's democratic institutions: the elected civil authority is the sole source of authority for any military decision.
- Unconditional accountability for military action runs through the elected civil authority back to the people.

- Military officers “are loyal to the concept of civil control of the armed forces and senior officers encourage and reinforce this view in the military establishment through education of their subordinates, by personal example and public behavior, and by disciplining wayward members of the armed forces.”<sup>18</sup> (Bland considers this a norm, but Marybeth Ulrich elevates this concept to a principle, writing that “the military profession’s first obligation is to do no harm to the state’s democratic institutions”.<sup>19</sup> Doing no harm is a higher duty, the execution of which may entail inflicting short-term harm on other imperatives. I believe that the importance of this basic concept warrants recognition as a first principle, rather than as a norm.)

## NORMS

- The civil authority, represented by the Minister, has unrestricted access to every document, plan or decision within the defense establishment.
- The military are separated from the political process, although individual members of the armed forces retain a wide range of political freedoms.
- The civil authority makes all decisions regarding roles, missions, allocation of resources, disposition and commitment of the military.
- The civil authority appoints the CDF – the “formal, professional military adviser to the civil authority and the sole link between the civil authority and the military chain of command”.<sup>20</sup>
- CDF recommends promotions to star rank and the civil authority approves or disapproves these. (Perhaps this should only apply at three star rank, below which the CDF should retain the authority to promote – as the Minister has no metrics except partisan political measures against which to assess promotability. If the preceding norm is followed, officers below three star rank should not have direct dealings with civil authority.)
- CDF has authority over technical military matters.
- Members of the military swear to uphold the constitution rather than allegiance to any military leader or institution.

## RULES

- The law subordinates the civil authority to the people, and the military to the civil authority – liberal democracies insist on loyalty to the law.
- National defense laws must unambiguously identify the chain of authority linking the people, through the civil authority, to the military.

- Military intervention in domestic affairs must be authorized at the specific request of the civil authority and for a specific length of time.
- Military subordinates are required to obey lawful orders issued by an authorized superior.
- The independent judiciary is the authority for resolving legal disputes between the government and the military.
- National defense laws must hold identifiable people responsible for actions and decisions. (Individual, rather than collective, accountability for decisions and actions must be clearly defined.)

Marybeth Ulrich proposes some useful additional norms (demonstrating that even a comprehensive list can always be improved). Ulrich underpins her norms with two key principles that depend on recognition of the military as a profession. First, there are distinct differences in responsibility and authority of military and political participants in the national security process. Second, as a servant of the nation, the military has a responsibility to balance functional and societal imperatives.<sup>21</sup>

Noting that civilian policy makers need to allow military professionals to express their point of view, Ulrich reinforces the concept that military officers should first offer advice candidly and forcefully, but then support decisions made by the civil authority *as if they were their own*.<sup>22</sup> Dissent should be expressed in internal fora, but never publicly. This norm promotes frank and professional exchange of views, based on respect for the professional expertise of participants. It encourages trust and an understanding of where the responsibility for decisions resides.

A neutral and non-partisan military is the foundation of a liberal democratic society's trust and respect for it. Senior officers must be non-partisan and comfortable serving any party; they should certainly refrain from public pronouncements of political affiliation.<sup>23</sup> This norm applies to retired officers, whom Ulrich suggests have a continuing responsibility to serve. They should therefore observe the civil-military behavioral norms as if they were still serving.<sup>24</sup>

Societal values and civilian control must be reflected in the military profession. Officers must engage with society and avoid thwarting social change just because it threatens the status quo.<sup>25</sup> The obverse of this coin is the civil authority's responsibility to respect the unique culture of the military. An organization charged with using lethal force to defend the community, whose members are expected to make extreme personal sacrifices in doing so, develops a peculiar culture to enable it to discharge its duties. Failure to recognize and nurture this culture risks damaging military warfighting effectiveness.

## IS THE ADF POLITICIZED?

Professor Hugh Smith has suggested that the Child Overboard affair represented a high-water mark in a series of questionable behaviors by both the Government and the ADF. He described problems in the Australian civil-military relationship as a 'pattern of behavior', and he identifies a range of issues that are contrary to the norms of healthy civil-military relations described above.<sup>26</sup> But the fact that very little analysis of Australian civil-military relations exists suggests either that a problem didn't exist until recently or that it was difficult for anyone to conceive that a problem could exist in a liberal democracy like Australia, with its professional and respected military force.

However, even a cursory comparison of the theoretical ideals for civil-military relations in the context of the Child Overboard incident and other behaviors evident in Australian civil-military relations suggests an underlying disfunctionality. I believe that the root cause of problems in the relationship is that the roles and responsibilities of the key players - the Governor-General, the Minister, the CDF and the Secretary - have significant gray areas in their legal definition. These gray areas, particularly regarding the diarchy at the head of the Australian Defence Organisation, have allowed the bureaucracy to assume power and influence in areas more properly the responsibility of military officers. Ignorance by politicians and military officers due to a lack of education in their respective roles and in behavioral constraints and professional expertise typifying sound civil-military relations has provided fertile ground for frustration and poor practices. But until now these problems have gone unnoticed: it appears that a simplistic view of civil-military relations, concerned with extremes rather than shades of gray, has nurtured an insidious growth of lesser, but potentially destructive, damaging behavior.

The Child Overboard affair brought the issue to the attention of the public, politicians and military professionals. It is time to assess the extent of politicization<sup>27</sup> of the ADF, by first tracking the problem through the dysfunctionalities in accountabilities and responsibilities, looking at the type of behavior that has arisen as a result, and then considering guidelines required to develop stronger and more clearly articulated civil-military relations norms.

## THE LEGAL UNDERPINNING OF MILITARY POLITICAL RELATIONS

The Australian Constitution and the Defence Act of 1903 define the legal basis for civil-military relationships. Late nineteenth century Australian politicians, in drafting these core national security documents, feared that a large standing army could pose a threat to the people. The Constitution and the Defence Act thus included specific measures to reduce the potential for this to occur. Defense was to be provided by a citizen army, rather than a large



standing force. More importantly, the documents were derived from the Westminster model of government, in which politicians make policy and public servants (including the military when the use of force is required) implement it. This is the essence of Australia's civil-military relationship – a clear and hierarchical division of responsibility. Of course, in practice the Westminster dichotomy is far more complex and imprecise, based as it is on a monarch possessing executive power which is exercised by a cabinet of elected ministers. Nevertheless, the past century of Australian democracy has seen the development of distinct civil-military roles - a political responsibility to define strategic policy (usually in terms of successive great and powerful allies), and a military tradition of service to the nation.

Increasing national independence from the United Kingdom over the course of the twentieth century has invalidated some of the letter of the law as set both in the Constitution and the Defence Act. Although the civil-military relationship continues to reflect the broad intent of the Federation Fathers, convention rather than strict adherence to the Constitution today dictates the roles of the Governor-General, politicians and the military.

### **Role of the Governor-General**

Section 68 of the Constitution vests authority in the Governor-General (as the Queen's representative) as Commander in Chief of Australia's military forces. This section, unchanged since the drafting of the Constitution, seems unambiguous. Yet constitutional scholars uniformly, and probably within the intent of the Constitution's authors, interpret the Governor-General's powers as being limited to those of a figurehead. The Governor-General exercises his power only as advised by the cabinet.<sup>28</sup> Real authority resides with the elected government.

Section 9 of the Defence Act also empowers the Governor-General to appoint the Chief of the Defence Force (CDF) and service chiefs. In accordance with the Constitution, he does so on advice of the cabinet, meaning that this fundamental decision is actually taken by government. The Governor-General's call-out powers are also similarly limited.

### **Role of Government**

The Constitution gives the Federal government power to provide for "the naval and military defence of the Commonwealth".<sup>29</sup> Thus the "first responsibility of government is to provide the nation with security from armed attack and from the constraints on independent national decisions imposed by the threat of such attack".<sup>30</sup> Thus, it is up to government to define national interests and then to articulate a grand strategy for protecting and developing them. Senior military officers should expect clarity on the ends sought, and in the constraints on ways and means to be employed.<sup>31</sup> On the recommendation of the Prime Minister, the

Governor-General appoints a defence minister to exercise, in accordance with the Defence Act, “general control and administration of the Defence Force.” The Act further requires that senior military officers exercise their powers “subject to and in accordance with any directions of the Minister.”<sup>32</sup>

### **Role of the Military**

The CDF, as specified in Section 9 of the Defence Act, commands the ADF. The three service chiefs command their services “under the CDF.” As part of their command responsibilities, Section 9 identifies the role of the CDF and service chiefs as advising the Minister “in such a manner as he directs” on matters relating to their respective commands.

The CDF and his senior officers therefore answer to the Minister by providing military professional advice, ensuring that the ADF is properly commanded and led, and ensuring that the services are capable of providing joint forces for military operations. They provide the warfighting expertise to support government decisions on the expenditure of around 10 percent of annual national outlays, ensuring that strategically and operationally relevant capabilities are available.

### **How do Defence civilians fit in? - The Diarchy**

The relationship between the Minister and the CDF is further complicated by the existence of a second senior defense officer – the Secretary. The Secretary is the senior civilian bureaucrat in the Department of Defence, appointed by the Minister. In other Departments a Secretary is solely responsible to his Minister for the outcomes to be achieved by that Department. In the special case of the Defence Department, the Secretary and CDF are co-leaders, each with specific, unequal but somewhat overlapping responsibilities. This arrangement is known as the diarchy.

Dr Allan Hawke, Secretary from 1999 – 2002, defined the diarchy concept in the following terms:

The diarchy is not about striking a balance between "opposing powers". It is about bringing together the responsibilities and complementary abilities of public servants and military officials, to achieve the Defence outcome sought by the Government of the day. Those complementary abilities are about, on the one hand, giving the CDF unfettered focus on the command of the ADF and, on the other hand, allocating clear responsibility to the Secretary for the resource, policy and accountability functions of the largest Department of the Commonwealth Government.<sup>33</sup>

As the principal civilian adviser to the Minister, the Secretary has fiduciary responsibilities for the effective administration of the Department and for efficient management of Defence

resources. He is tasked to ensure that public funds are expended in a fiscally responsible manner; he issues an annual report accounting for military expenditure for public scrutiny.

### **Problems in how the roles interrelate**

The Constitution and Defence Act contain several ambiguities and nuances that have become detrimental to sound civil-military relations. The Queen has become less relevant to modern Australian society, yet technically she wields executive authority over the ADF. The oath sworn by military officers is to the Queen, rather than to the Constitution or Australian people.<sup>34</sup> Command flows through the Governor-General, acting on advice of the executive, to the CDF. In practice, however, military officers understand that command actually emanates from the executive and that the Governor-General's primary responsibility is to ensure that the ADF is not used as a political tool by government.

...the Sovereign has the power to influence or even to deny the use of the armed forces if it is clear that the government of the day intends that the armed services should be used for purely political ends of a domestic nature.<sup>35</sup>

An arrangement in which military officers are expected to understand that the actual chain of command is different from the constitutional lineage is fraught with danger. In a political crisis such as occurred in 1975, when the Governor-General had to exert his technical power to remove the incumbent government, military officers could be required to decide whom they serve. If for any reason the Governor-General acted unilaterally to deny governmental use of the ADF, the CDF and service chiefs would be obliged to obey the Governor-General rather than the elected government.

Fortunately, this scenario represents an unlikely and extreme circumstance. Much more significant for day-to-day Australian civil-military relations are deficiencies in the legislation in defining the term 'Minister', the roles of the CDF and Secretary, and the meaning of 'command' and 'administration'.

While legislation simply refers to the 'Minister', there is no longer a single Minister for Defence. To distribute the ministerial workload of managing an increasingly complex defense portfolio, recent governments have expanded the outer Cabinet to include a 'Minister Assisting the Minister for Defence' and a member of parliament titled the 'Parliamentary Secretary to the Minister for Defence'. Although the Minister for Defence delegates some of his responsibilities to these ministers, in practice he has not accepted responsibility for their actions and has not been held accountable for their decisions. These subordinate ministers therefore have an uncertain legal basis for the authority they exercise over military officers.<sup>36</sup> To add to this confusion, other changes over the last two decades, designed in part to strengthen the position

of CDF at the expense of the service chiefs' influence, have tended to remove the Minister from frequent contact with his principal military professional advisers. Neil James argues that:

This lack of contact has resulted in numerous consultation, briefing, direction and cultural difficulties at many levels, and in how the minister relates to the department and the department to the minister. This lack of contact has also hindered the development of mutual confidence at the politico-military interface.<sup>37</sup>

As will be discussed later, infrequent communication and poor understanding of who is the 'boss', and who speaks with authority on his behalf, has contributed to recent Australian civil-military problems.

Contemporary Defence secretaries have further sought to interpose a bureaucratic layer between the Minister and the professional military by claiming significantly more authority for themselves than the Act allows. Dr Hawke described the diarchy as being an "unconventional vesting of authority in two equals."<sup>38</sup> As a matter of law, the CDF and the Secretary may be co-leaders but are not equals. Section 9A of the Defence Act directs that the CDF solely commands the ADF, and he and the Secretary *jointly* administer it. However, the Act does not define 'command' or 'administration'. While some issues clearly fall under the purview of either command or administration, others do not. For example, the appointment and promotion of military officers has been viewed as the CDF's responsibility in the past. In his May 2000 speech to the RUSI, Dr Hawke indicated that he exerted a role in this process when he claimed that the CDF consulted him before submitting to the Minister proposals for promotion of military officers to one star and above.<sup>39</sup> Dr Hawke also alluded to a consensual approach between military and civilian officers achieved through "careful" selection and promotion of military officers. His role in shaping the military senior leadership group is particularly contentious, given the widespread concern over the last decade of the politicization of the public service.<sup>40</sup>

Dr Hawke's interpretation of the responsibilities of the Secretary extended well beyond that suggested by the term 'administration'. He defined his responsibilities as including "strategic assessment, long term capability planning that conforms to the Government endorsed strategic assessment, providing intelligence, and effective liaison with other departments on national security matters."<sup>41</sup> Cultural tensions between civilian and military staff<sup>42</sup> have thus been exacerbated by uncertainty about the extent to which responsibilities overlap, so that the meaning itself of civil control of the military has been obscured. Paul Barratt, Dr Hawke's predecessor as Secretary, noted that tenure is important for the Secretary in order to allow the incumbent to "assert the sort of 'civilian control of the military' that the Government says it wants and that is a vital part of our traditions as a civil society."<sup>43</sup>

Dr Hawke subsequently attempted to play down this issue:

Most evident in the seventies and eighties, but still lingering on today – is the view that civilians interpret civil control of the military as civilian control. That public servants use the bureaucracy to, in some way, frustrate what are perceived by some as the proper responsibilities of the military. This is not the view of senior executives in the Department; nor is it the view of senior Defence Force officers.

My response is that no informed person in Defence would dare presume to take on the mantle of Ministerial authority. This assertion also ignores the fact that the Defence bureaucracy – with its processes, procedures, regulations, committees and so on – is just as much military as civilian. Civil control means control by the Minister for Defence and the Government – it's as simple as that.<sup>44</sup>

It should be as simple as that, but in practice it is not. Paul Barratt obviously believed that senior civilians should “take on the mantle of Ministerial authority”, or at least filter military advice. The situation seems not to have improved since the 1950's, when Secretary Sheddon was strongly criticized in Parliament for usurping the role of the service chiefs and becoming the “virtual strategic chief of the Australian armed services.”<sup>45</sup> A 1987 Joint Parliamentary Committee investigation into the diarchy found that the defence civilian hierarchy had gained power beyond that appropriate for an enabling bureaucracy. The Committee proposed “that, as commander of the ‘operational element’, the CDF should have primary responsibility for developing and implementing defence policy, and the day-to-day management of defence activities.”<sup>46</sup> The government of the day rejected the Committee's recommendations on the diarchy.<sup>47</sup>

## LITTLE EMPATHY OR EDUCATION

### **Level of understanding of military issues by politicians**

Australian parliamentarians' lack of military experience explains in part the rejection of the Joint Parliamentary Committee's recommendations. As is occurring in other advanced democracies, the number of Australian politicians who have military service has rapidly dwindled. In the last Parliament, only two of 223 federal parliamentarians were combat veterans, and only nineteen had peacetime military experience. Even this slight parliamentary acquaintance with matters military was gained in relatively junior ranks and in low level command or staff appointments.<sup>48</sup>

Members of Parliament appear to have made little effort to become better informed. The traditional Australian bipartisan approach to defense issues, coupled with the oft quoted mantra that “there are no votes in defence”, have not helped the situation.<sup>49</sup> Meaningful debate on

defense issues is almost unattainable in an environment of ignorance of the conditions and structures of the ADF. The Prime Minister, backed by the Minister for Defence, illustrated the problem in Brussels recently when he told the Commander of the U.S. European Command, General Ralston, that Australia's armoured brigade might be deployed to Iraq for operations if a war occurs.<sup>50</sup> The media heavily criticized the Government's ignorance, given that Australia does not possess an armored brigade. The incident also suggests that government does not consult effectively with its military officers. The newly appointed CDF, General Cosgrove, subsequently offered an 'explanation' in support of the Prime Minister, saying that the mechanised brigade in Darwin could be considered a "light armoured" brigade.<sup>51</sup> While this incident was fairly trivial and General Cosgrove's explanation was appropriate, senior officer 'explanations', 'clarifications' and 'retractions' covering for the government have become a common behavior - one that will be examined in more detail later.

### **Level of understanding of political issues by senior officers**

If politicians can be said to be ignorant of the military, then senior military officers are equally at a loss when confronted with the complexities of politics. Nick Jans suggests that senior officers posted to the "sociologically complex arena" of Canberra are untrained for the peacetime appointment that awaits them there, because their training and selection focuses on warfighting skills.<sup>52</sup> While most officers are generally experienced in bureaucratic politics, the soldier-statesman who has keen political acumen is rare.

Military professionals embark on a career of training and development, equaled by few other professions. Officer development occurs as a spectrum, with initial instruction taking place at the Australian Defence Force Academy, mid career training at Joint Command and Staff College, and senior officer training at the Australian Defence College. Apart from undertaking a wide variety of on-the-job challenges, an officer's preparation over 25 years to the point of promotion to general officer will typically include seven or eight years of formal education.<sup>53</sup> The curriculum of the courses undertaken might include some consideration of ADF values, particularly in initial training, but almost no examination of civil-military relations. Unless an officer's tertiary education was in the area of the political sciences, and few are, the officer will receive no formal education of the Australian political system and the place of the military within it.

## THE RESULT - POLITICIZED BEHAVIOR

The current Australian Government has exhibited a tendency to see defense issues through a partisan political lens. Claiming credit for defense policy successes, and repudiating failures, has become a primary objective of politics. Considerations of party needs rather than the public good dominate policy formulation. Using the ADF to win electoral support or score political points has become such a commonplace political practice that it took an extreme incident to cause public debate on its appropriateness. Government has also inappropriately involved itself in military promotions and has allowed the civilian bureaucracy to grow in power.

Officers of the ADF are complicit in these actions in that they acquiesce through ignorance of appropriate civil-military norms or actively connive to assist the Government through a misplaced sense of loyalty. However, there is little evidence of a strong ADF political preference, or that such a preference manifests itself in any overt behavior exists.<sup>54</sup> Loyalty to a single service, rather than a political party, most often motivates ADF officers whose behavior could be questioned. These officers would probably be surprised to learn that their actions contravened sound civil-military relationship norms. A strong sense of the importance of both being and being seen to be politically neutral pervades the ADF, even if an understanding of the practical implementation of such norms is weak.

### **Government behavior that is contrary to a sound relationship**

The outcome of poorly defined responsibilities and an inadequate understanding of respective professional responsibilities constitutes Smith's 'pattern of behavior' in which the Government has failed to respect appropriate civil-military relations. This pattern includes at least four modes of behavior:

- attempts to involve Defence in party political debate,
- the attitude that the Government 'owns' the military,
- Government involvement in military promotions, and
- Governmental 'gagging' of public statements by members of the ADF.

Incumbent's use of Defence to some degree for party political gain is probably unavoidable. Governments of both major political parties have exploited the privilege of announcing major capital equipment expenditures at times or in locations that best suit their electoral chances. However, such use of Defence expenditure to shore up weak electorates is a gray area that can easily become unacceptable.<sup>55</sup> A more readily identified bad practice is political point scoring in the media or through Senate Estimates at the expense of military officers. Playing one officer against another – exemplified during the Child Overboard incident –

or asking politically motivated questions during Senate hearings has become common practice over the last decade. This behavior by politicians is particularly reprehensible given that military officers are bound by their loyalty to the Government not to answer back. The Government's lack of regard for the apolitical obligation of military officers has extended during the current government's term to directing military officers to make public statements supporting government 'damage control' or 'political spin' efforts.

Such behavior may be explained in part by the emphasis Government Defence Ministers have given to ministerial 'ownership' (in a personal sense) of the military. Minister Reith made it clear in an address to the ADF senior leadership group<sup>56</sup> that they "belonged" to him.<sup>57</sup> This attitude has been reinforced by Secretary Hawke and CDF Barrie's development of the Defence Balanced Scorecard, which describes Government as the "owner" of the ADF. Smith describes this approach as "simplistic, misleading and damaging", as it encourages Government to think of its relationship with the ADF in terms of servitude rather than stewardship.<sup>58</sup>

Another area for potential civil-military relationship problems involves the policy for Ministerial vetting of all star rank promotions and postings. This policy has been in force since 1985, having been introduced by a Labor government. While a government should have some ability to appoint individuals sympathetic to their policy platform, it should assume that Australian military officers are apolitical and can professionally and impartially implement any elected government's policies. In that case, there is no conceivable need for a government to be involved in selection of officers serving below the CDF. Ministerial involvement in the selection of star rank officers has the potential to politicize the officer corps if officers believe that their political reliability is taken into account during the Minister's vetting process.<sup>59</sup> As it stands, officers are not privy to the rationale used by the Minister to confirm the promotion of star rank officers, nor is it obvious what criteria (apart from partisan political values) would be appropriate.<sup>60</sup>

A final problem concerns constraints on the freedom of speech of military officers. Defence Instructions (General) Number 8 (released in August 2001) muzzles the ADF, requiring Ministerial approval before *any* public statement can be made. This recent regulation prevents ADF commanders from providing the public with information on operational matters, or any other issues that would normally be considered within the military purview. The policy was prompted by the Government's irritation over military officers leaking politically embarrassing or damaging information to the media<sup>61</sup>, but it is a draconian solution to the problem and has further damaged the level of trust between the military and politicians. While the Government has a responsibility to control information regarding security issues, its power to control ADF



officers has in this case been abused in order to protect its political image. In an era when community debate on defense issues is at best slight, Governmental restrictions on criticizing policy have also virtually eliminated strategic discourse in professional military journals and the mainstream media.<sup>62</sup>

### **Military behavior that is contrary to a sound relationship**

Through frustration, ignorance or malice, some senior officers have responded in kind to poor political handling of civil-military interactions. Military behavior not in accordance with sound civil-military relationship practices has included:

- a lack of honesty in dealings with or on behalf of the Minister,
- inappropriate public support of Government policy (which I call the 'bobbing head' syndrome)
- shirking or avoiding implementation of Government policy, and
- leaking of information.

Dishonesty in reporting to the Minister or parliament usually manifests itself in exaggerations of capability, or the need for a capability, in order to gain budgetary resources. Although the Government has taken steps in recent years to improve the quality of ADF preparedness and acquisition reporting<sup>63</sup>, senior officers providing information to Senate Estimates or inquiries have in the past been selective in the information they provide. In particular, the Collins Class submarine acquisition provides a number of examples of ADF officers emphasizing certain information while failing to provide to the Minister other pertinent facts. In 1999, former Defence Minister John Moore commissioned an external review on the scope of the Collins problem, a reflection of his lack of confidence in Defence advice.<sup>64</sup> The motives of military officers who indulge in such behavior reflect a misplaced sense of loyalty – to their unit or service rather than to the greater public good.

The reverse of this dishonesty to the Government is dishonesty on behalf of the Government to the public - the 'bobbing head' syndrome. Senior officers have on occasion become apologists for Government actions and partisan policies, perhaps in order to protect their promotion chances or perhaps out of a misplaced sense of loyalty. Admiral Shackleton's child overboard retraction is an example. A more disturbing example occurred when the CDF and Service Chiefs, at the pre-release of the 2001 White Paper for the senior leadership group, stood up one by one to claim that the Minister has given us "all that we asked for" in relation to future capital equipment acquisition. Attending officers involved in the Force Development and Acquisition staff areas knew that this was not true. It would have been accurate for the CDF to

indicate that the Minister had won for Defence as much as could be expected, but the CDF apparently had agreed to help 'spin' the issue.<sup>65</sup> This incident was a precursor to the same bobbing head action by CDF Barrie during the Child Overboard affair – with disastrous results for him personally and for the ADF's apolitical credibility.

Not all officers bob their heads; in fact some suffer from stiff necks. An example of this form of behavior can be seen as an outcome of the intense unhappiness of some ADF senior leaders, particularly in the Army, with the strategic guidance provided by Government since 1985. Such unhappiness is not new; in the late 1930's Army leaders provided unequivocal and unheeded advice to Government regarding the myopia of the 'Singapore strategy'. The 1930's Army leadership, despite its concerns, understood that after having provided their best advice, their professional responsibility was to implement the Government's strategic direction.<sup>66</sup> Half a century later, the Government's strategy of relying on maritime assets to defend the Sea Air Gap to Australia's north, with the Army reduced to a mop-up role, also prompted criticism from senior Army officers. Unlike their predecessors, not all such officers were able to implement wholeheartedly the Government's strategy. In a recent article Brigadier Jim Wallace, now retired but formerly Commander of Australia's Special Forces (SF), claimed that the current SF capability is a direct result of SF officers actively undermining or ignoring Government directions and priorities.<sup>67</sup> This kind of behavior has been termed "shirking" by Peter Feaver; it becomes apparent in military non-compliance with legitimate Government directions.<sup>68</sup> Dishonesty in providing complete and honest advice to Government, as discussed earlier, is also a form of shirking.

Leaking information is another way of inappropriately pressuring the Government. Malcolm McIntosh and John Prescott, in their report to the Minister on Collins submarine deficiencies, noted that they were "astonished and appalled" by the extent of information about the Collins submarines which had been leaked.<sup>69</sup> Apparently RAN surface warfare officers, by revealing the extent of the submarine's deficiencies, had hoped to put public pressure on the Government to cancel the project (thereby releasing funds for additional surface combatants). Leaked information not only included politically embarrassing material on cost over-runs and the Government's involvement in the acquisition process, but also the noise profile of the submarine, obviously an operationally sensitive matter. The 1999 tensions in East Timor gave rise to further leaks. The Australian Government is alleged to have withheld information regarding Indonesian support to East Timorese militia in order to allow diplomatic solutions to be pursued with the Indonesian Government. After the event, several officers believed that the Government's withholding of information was responsible for the deaths of thousands of

Timorese. Leaks of intelligence documents occurred, all highly embarrassing for the Government.<sup>70</sup> The seriousness of the submarine and Timor leaks led to the creation in May 2000 of a new unit in Defence - the Security Investigation Unit – with a charter to pursue criminal charges against leakers.<sup>71</sup>

Underpinning all of these problems is a misplaced sense of loyalty. Military officers are inculcated in a professional norm of loyalty to their fellow officers, their service and their country. This trait necessarily runs deep in those who have volunteered to risk their lives in defense of the national interest. Loyalty to a civil authority represented by a politician whose behavior is governed first by the political reality of self interest in re-election, who may not earn such respect or loyalty, is asking much of military officers. But not more than is necessary. Military officers need to develop an understanding that being held to a higher standard should be a source of pride, rather than frustration.<sup>72</sup>

### **When to draw the line**

How does a senior officer know when to disobey orders – to draw the line? Obviously orders must be disobeyed if they are unlawful. But such orders are seldom obviously unlawful. The law allows latitude for officers to assume that an order given by a competent authority possessing superior knowledge is lawful. Senior officers, however, could be expected to possess a broad understanding of government policy. If a government direction has partisan political motivation and therefore may not be legitimate, senior officers should explore the options of expressing dissent. In the end, however, having offered advice that has not been agreed by government, an officer has the option of either accepting the outcome and implementing government directives professionally, or resigning.

The value of resignation as a protest is usually limited. Someone else will be appointed to carry out Government's legitimate bidding. Brigadier Wallace's resignation, for example, had no impact on the execution of Government policy within the ADF, although on moral grounds he felt that he could no longer serve. One has to respect this decision, although not condone the political commentary he and other retired officers have then felt unconstrained to engage in.<sup>73</sup> The Wallace case offers a good example of principled rather than partisan motivation still leading to a politicized outcome. Drawing the line calls for judgment in balancing the need to avoid the 'bobbing head' syndrome with the overall necessity to demonstrate military subordination. Thus norms developed to guide behavior cannot be realized through black and white rules if they are to be effective.

## CONSEQUENCES OF A POLITICIZED MILITARY

What are the potential outcomes of an increasingly politicized ADF? Smith argues that the “function of the military could be impaired by failure to respect norms and practices.”<sup>74</sup> He suggests that failure to observe the fundamental norms of civil-military relations will reduce the ADF’s ability to function efficiently and effectively. It will also cause “discontent among those in uniform and diminish respect for the Australian Defence Force in the eyes of society.”<sup>75</sup> As a consequence, he predicts that retention and recruitment will suffer. Similarly, Malcolm Kennedy argues that politicization of the ADF has “caused a huge loss of confidence and much anger at all levels of the ADF.”<sup>76</sup> The public’s trust in the professional advice given to Government by senior officers is at risk if advice is tainted by the odor of partisan politics. In such a circumstance, how can the public tell if the military is telling the Government what they need to hear or what they want to hear? The trust between a democratic society and its institutional defense force is built up over time, but can easily be lost. It is not something to be trifled with for short-term political gain.

Despite the fallout from the Child Overboard affair, the bond of trust between the public and its defense force seems to have remained intact. The ADF has not yet been significantly politicized, so the issue should not be overblown. However, a range of behaviors by politicians, bureaucrats and military officers has been evident, revealing insufficient understanding of the essence of military subordination to the civil authority. Ironically, the strength of the relationship between the Australian public (and its political representatives) and the ADF is also a potential weakness. An extreme manifestation of a military threat to society (a coup) is so unlikely that complacency about lesser forms of inappropriate behavior seems to have crept into the profession. The current Australian Government has shown a propensity to exploit the ADF (and other government institutions) for political purposes. Australian officers simply need guidelines and a better education on such matters.

## **IMPROVING CIVIL-MILITARY RELATIONSHIPS – GUIDELINES FOR AVOIDING POLITICIZATION**

### CURRENT AUSTRALIAN DEFENCE ORGANISATION GUIDELINES

On his appointment in 1999, former Secretary of Defence Dr Hawke was so concerned about the apparent loss of trust by successive ministers in professional military advice that he instituted a senior leadership renewal program. The program was designed to reinforce the understanding of senior military officers of the role of the Minister as the ‘boss’ and to restore Ministerial confidence in the military advice provided him. Dr Hawke felt that an air of ‘learned

helplessness' (or shirking?) existed: he also believed that leaks and lies characterized the military's relationship with the Minister.<sup>77</sup> Although he apparently did not recognize it, he was observing the symptoms of a lack of shared and articulated guidelines for a proper civil-military relationship.

He then established his 'unbreakable rules': a set of fairly crude and blunt rules to govern senior leadership behavior. The rules focused the senior leadership on the need to serve the Government, even when the Government's behavior or decisions were questionable. The rules did nothing to address the Government's partisan political treatment of the military. In fact, Dr Hawke seemed almost to encourage this through his identification of government as the 'owner' of the ADF in the Defence Strategic roadmap and Balanced Scorecard. The use of such corporate practices and theories in management of Defence seems to have further weakened military officers' understanding of civil-military norms.

Dr Hawke's unbreakable rules for the senior leadership group were:

- never mislead the Minister (or anyone else for that matter);
- never abuse authority/power;
- never "leak" information; and
- never condone poor performance.<sup>78</sup>

#### GUIDELINES APPROPRIATE TO THE AUSTRALIAN CIRCUMSTANCE

The challenge, as noted by Bland, is to ensure that civil-military relations guidelines are specific and comprehensive, while avoiding unworkable prescriptiveness.<sup>79</sup> Dr Hawke's rules clearly were a short-term measure to address an element of the problem. They are specific, but not comprehensive. On the other hand, the problem with applying Bland's comprehensive theory is that reality is too complex to be properly shaped by theoretical maxims. There will be situations when rules need to be broken. However, given the paucity of guidelines for Australian civil-military relations, a broad set of norms and rules needs to be adopted, even if they are more aspirational than practical. Such guidelines will fundamentally enhance public trust in, and public perception of, both politicians and senior military officers. The purpose of the guidelines would not be to control behavior so much as to:

- set public standards by which the behavior of both politicians and military officers can be assessed,
- provide a basis for assessing proposed actions and so guide behavior,
- provide an agreed foundation for responding to behavior that is considered unacceptable, and

- assure and reassure the community that their trust in the ADF is well founded.<sup>80</sup>

A first and important step in establishing the conditions for positive civil-military relations will be clarification of the legislation to better define and regulate the roles of principal players. This will establish lines of accountability. Civil control of the military does not mean civilian control of the military if the civilians are public servants: civil control is a political rather than bureaucratic responsibility. Reform, education and establishment of confidence measures will be required. Australia's senior military officers must be conversant with policy and politics in order to assist in the development and implementation of the Government's national security strategy. They must be able to recognize the bounds of appropriate advocacy of advice and position, and resist inappropriate use of the ADF as a national institution and asset.

While they may be aspirational, credible guidelines must contain clear injunctions, prescriptions and prohibitions – rules as well as theoretical principles and norms to guide Australian civil-military relations. These guidelines can and should draw from the experience of other countries as derived by experts in the field, but should reflect the particular character and challenges of the Australian political-military relationship.

#### AN AUSTRALIAN CIVIL-MILITARY RELATIONSHIP REGIME

The fundamental principle to be restored in the Australian defense structure is that the military is subordinate to the civil authority. Both the Government and the ADF are accountable to the Australian public for their actions. This principle seems obvious, but it is clear that some politicians, bureaucrats and military officers are failing to live up to the responsibilities it imposes. Ultimately, concern for doing no harm to this principle should guide every action.

A second principle that also might seem to be stating the obvious is that military professionals need to be responsible for military professional matters. This in itself would better focus senior officers on their roles, and help politicians understand the difference between ownership and stewardship.

A third principle to be put into practice is that military professionals need to be responsible for explaining to the public military professional matters. The current Government has adopted a policy of muzzling Defence so that information that might be politically embarrassing is either not released or its release is timed to minimize political fallout. Such use of the military suggests that the Government is trying to avoid its fundamental responsibility to be answerable to the public for its actions. It also politicizes the military. Operational secrecy aside, the military must be open and transparent; it is expected to explain its actions to the media.

Transparency would improve the professional health of the military, which depends on officers critically examining their profession and its development.

Building on these principles, Dr Hawke's four unbreakable rules for the senior leadership group should be replaced by a more comprehensive and sophisticated set of guidelines. Recommended norms, a shared understanding of which will guide behavior and provide a benchmark against which behavior can be assessed, are:

- The Minister for Defence (representing the elected government) is responsible for decisions regarding roles, missions, allocation of resources, disposition and commitment of the military.
- The CDF is responsible and accountable for military strategic advice to the Minister. Military advice must be complete, honest and professional in all regards.
- The CDF, and through him all military officers, are responsible for the implementation of government military policy as if it were their own.
- A military officer's first loyalty is to the constitutionally elected Australian Government. Loyalty to the ADF or a single service must be subordinated to this higher loyalty.
- The Minister, on the advice of the CDF, will appoint the CDF, VCDF and the service chiefs. The CDF has authority to promote and appoint one and two star officers. The civilian bureaucracy has no role in this process.

To fix existing problems, three rules are required. As the principles and norms of appropriate behavior become better understood by politicians and military officers, the need for these should diminish or even disappear.

- Leaking information or speaking publicly against a Government policy is unacceptable regardless of the circumstance.<sup>81</sup>
- Shirking implementation of political decisions in military matters by formal or informal veto or avoidance will not be condoned.
- Retired officers continue to be bound by the strictures of civil-military relations guidelines.

## IMPLEMENTATION

A comprehensive plan for the implementation of these guidelines is beyond the scope of this paper. Resolving the ambiguity surrounding the Governor-General's role will require Constitutional change, which can only occur in the broader context of Australia becoming a republic. Implementation at a more practical level will require amendment to the Defence Act to clarify areas where accountability is not clearly defined. A rebalancing of the responsibilities in the diarchy to better reflect the fiduciary expertise of the Secretary and his staff, and the military

expertise of the CDF and his military officers, would naturally follow.<sup>82</sup> The intertwined military-civilian Defence structure needs to be disentangled to allow a clear chain of command from the CDF through the Australian Defence Headquarters to the ADF, and a separation of military operational matters from other departmental functions. The role of the Chiefs of Staff Committee (COSC) needs to be reinforced, as does the position of CDF in the National Security Council (NSC).

The educational system for politicians and military officers should include formal instruction in civil-military relations. Attachments to parliament of O5 or O6 ranked military officers, identified for star rank, to study politics in practice should be expanded. The potential for such officers to become involved in partisan politics should be anticipated and monitored. Guidelines must be communicated to the entire community. The public must see and believe that guidelines are subscribed to and enforced by both Parliament and the ADF. The most important step that can be taken in improving Australian civil-military relations is the simplest: ADF senior officers must be civil-military relations role models.

## **CONCLUSION**

ADF Senior Leadership is not yet politicized in any extreme sense of the term. Instances of politicized behavior have occurred at the benign end of the spectrum. More troubling is the concern that senior officers are politically naïve. The current Australian Government has become increasingly brazen in its political use of the ADF. Senior officers have not acted to curb this trend, and in some instances have supported it. Governmental activities have included the inappropriate use of its power to control information and promote general officers in order to protect political prospects. Senior ADF officers have leaked information and shirked their duty to execute policy. Short-term political interests have tainted the political impartiality of the ADF.

The climax of this pattern of behavior occurred in the heated environment of the November 2001 federal election campaign. The professional head of the ADF was seen by some to have at worst behaved in a partisan political manner, and at best to have been a “dill.”<sup>83</sup> The Child Overboard incident should sound a wake up call in both government and ADF circles. This type of behavior by politicians and military officers warns of impending politicization of the military. The situation can only get worse. Australia has deployed elements of the ADF to the war in Iraq. The antics that marked the Child Overboard affair were undesirable in a time of peace; they are unacceptable in a time of war. It is time to establish a set of clearly articulated Australian civil-military behavioral guidelines and educate national security practitioners in them.



WORD COUNT = 9611.

## ENDNOTES

<sup>1</sup> See, for example, "Defence force being embroiled in politics," The Age, 18 April 2002; available from <http://www.theage.com.au/articles/2002/04/18/1019020675407.htm>; Internet; accessed 15 July 2002.

<sup>2</sup> This description of the SIEV 4 incident is drawn from the Australian Senate Select Committee inquiry into a certain maritime incident; "Report on a Certain Maritime Incident," 20 February 2002; available from [http://www.aph.gov.au/Senate/committee/maritime\\_incident\\_ctte](http://www.aph.gov.au/Senate/committee/maritime_incident_ctte); Internet; accessed 26 December 2002.

<sup>3</sup> The confusion began through a phone call from the Joint Task Force (JTF) commander to the Commanding Officer (CO) of HMAS Adelaide during the incident. Although their recollections vary as to the detail of the conversation, the CO reported in the course of the discussion that a child was being held over the side of SIEV 4. The JTF commander immediately reported to his higher HQ that a child had been thrown overboard. He subsequently testified that this is what he was advised, although the CO stated in his evidence that he had not made this claim. Interestingly, illegal immigrants had shown themselves to be desperate on other occasions. Acts of violence, self-harm and sabotage of vessels were commonly encountered by the Navy. During a subsequent interception of a SIEV later in November 2001, children were thrown overboard to force Navy crews to rescue them.

<sup>4</sup> Michael O'Connor, "Is the ADF being Politicised?" Defender, 19, no.1, (Autumn 2002): 6.

<sup>5</sup> And if so Admiral Shackleton was not obliged to obey. However, as a contender for elevation to CDF, he may have seen his promotion prospects as being dependent on the Government's view of his political reliability.

<sup>6</sup> Adrian D'Hage, "Those at the deadly end of war deserve at least a show of integrity," The Sydney Morning Herald, 26 March 2002; available from <http://www.smh.com.au/articles/2002/03/25/1017004764883.htm>; Internet; accessed 26 December 2002.

<sup>7</sup> Hugh Smith, "A Certain Maritime Incident and Political-Military Relations," Quadrant, (June 2002): 38.

<sup>8</sup> O'Connor, 6.

<sup>9</sup> John Howard, Prime Minister, Commonwealth Parliamentary Debates, House of Representatives, 21 February 2001, 724-725.

<sup>10</sup> Geoffry Barker, "Fallen Pillars: The assault on public institutions," Australian Financial Review, 28 March 2002, 31.

<sup>11</sup> Smith, 38.

<sup>12</sup> Douglas Bland attributes renewed interest in civil-military relations to the emergence of post-cold war democracies in Eastern Europe, the American quest to spread democracy, continued problems in imposing civil control over the military in many states and to a moment of

self-doubt over the effectiveness of civil control in the United States. Douglas L. Bland, "A Unified Theory of Civil-Military Relations," Armed Forces and Society, 26, no.1, (Fall 1999), 7.

<sup>13</sup> I use the following taxonomy in this paper: *principles* are underlying and fundamental tenets, *norms* are standards serving to regulate proper and acceptable behavior, and *rules* are more proscriptive guides for conduct. The term *guidelines* is used as the collective noun.

<sup>14</sup> Smith, 39.

<sup>15</sup> Bland, 9 and 19.

<sup>16</sup> *Ibid.*, 20.

<sup>17</sup> Douglas Bland, "Patterns in Liberal Democratic Civil-Military Relations," Armed Forces and Society, 27, no.4, (Summer 2001), 525-540.

<sup>18</sup> *Ibid.*, 533-534.

<sup>19</sup> Marybeth Ulrich, "Infusing Civil-Military Relations Norms in the Officer Corps," in The Future of the Army Profession, ed. Don M. Snider & Gayle L. Watkins, (Boston: McGraw-Hill Primus Custom Publishing, 2002), 254.

<sup>20</sup> Bland, "Patterns in Liberal Democratic Civil-Military Relations," 533.

<sup>21</sup> Ulrich, 266.

<sup>22</sup> *Ibid.*, 255.

<sup>23</sup> *Ibid.*, 259.

<sup>24</sup> *Ibid.*, 262.

<sup>25</sup> *Ibid.*, 263.

<sup>26</sup> Smith, 39.

<sup>27</sup> For the purposes of this paper, the term *politicization* describes behavior that is not politically neutral or impartial. Two broad categories of politicization are apparent to some degree in the ADF. These are partisan use of the ADF by government, and attempts by ADF officers to support either their own (usually single service) agenda or a political position of the government.

<sup>28</sup> David Forbes, "Constitutional and Legal Command of the Australian Defence Forces," Defender, 19, no.2, (Winter 2002): 28.

<sup>29</sup> Australian Constitution, Section 51 (vi). Available from <http://www.aph.gov.au/senate/general/constitution/par5cha1.htm>; Internet; accessed 10 November 2002.

<sup>30</sup> Department of Defence, The Defence of Australia 1976, (Canberra, ACT, Australian Government Printing Office, 1976), preamble.

<sup>31</sup> Bland, "Patterns in Liberal Democratic Civil-Military Relations," 535.

<sup>32</sup> Defence Act 1903, Section 8, "Powers of Minister in relation to Defence Force." Available from <http://scaletext.law.gov.au/html/pasteact/0/182/0/PA000130.htm>; Internet; accessed 10 November 2002.

<sup>33</sup> Allan Hawke, "The Diarchy," speech to Royal United Services Institute of Australia (RUSI), 1 May 2000, Adelaide, SA.

<sup>34</sup> The Oath sworn by Australian military officers of the 1970's (who are now colonels and above) was not to the Minister or the government, but rather to 'well and truly serve' Her Majesty Queen Elizabeth the Second, her heirs and successors. Available from [http://www.awm.gov.au/encyclopedia/oath\\_enlist.htm#Vietnam1](http://www.awm.gov.au/encyclopedia/oath_enlist.htm#Vietnam1); Internet; accessed 10 November 2002.

<sup>35</sup> G. Hartnell, Canberra Papers on Strategy and Defence No. 27 (1983), quoted in Sir Ninian Stephen, "The Role of the Governor-General as Commander-in-Chief of The Australian Defence Forces," address to the Joint Services Staff College, 21 June 1983, Canberra, ACT. Available from [http://www.republic.org.au/ARM-2001/speeches&articles/spa\\_stephens1.htm](http://www.republic.org.au/ARM-2001/speeches&articles/spa_stephens1.htm); Internet; accessed 20 November 2002.

<sup>36</sup> Forbes, 29.

<sup>37</sup> Neil James, "Reform of the Defence Management Paradigm: A Fresh View," Working Paper No 59, Australian Defence Studies Centre, Canberra, May 2000, 21.

<sup>38</sup> Allan Hawke, "What's the Matter – A Due Diligence Report," speech to the National Press Club, 17 Feb 2000, Canberra, ACT. Available from <http://www.defence.gov.au/secretary>; Internet; accessed 24 November 2002.

<sup>39</sup> Hawke, "The Diarchy." The CDF is not consulted on public service appointments within the Department, over which the Secretary retains authority.

<sup>40</sup> See for example, Richard Muligan, "Politicising the Australian Public Service?" Research Paper No. 3, Department of the Parliamentary Library, Canberra, 10 November 1998.

<sup>41</sup> Hawke, "The Diarchy."

<sup>42</sup> Military officers could generally be characterized as valuing directness, decisiveness, and action rather than inaction. On the other hand a successful bureaucrat (and for that matter politician) values persuasion, compromise and often inaction. Judith H. Stiehm, "Civil-military relations in War College curricula," Armed Forces and Society, Brunswick, 27 no. 2, (Winter 2001).

<sup>43</sup> Paul Barratt, "Ministers do staff a disservice," The Australian, 27 September 2002. Available from <http://www.theaustralian.news.com.au/printpage/0,5942,5174941,00.html>; Internet; accessed 27 September 2002.

<sup>44</sup> Hawke, "The Diarchy."

<sup>45</sup> William Charles Wentworth, Commonwealth Parliamentary Debates, House of Representatives, 29 September 1955, 1142-1145, quoted in James, 10.

<sup>46</sup> Ibid. The committee's suggestion that the CDF (rather than the government) should have carriage of development of defense policy suggests a low level of understanding of the fine distinctions of the relationship.

<sup>47</sup> A measure of the current institutionalized public service dominance of defense decision making is that the key committee for determining on military capability, the Defence Capabilities Committee, comprises three civilian members and one military member – the Vice Chief of the Defence Force. The service chiefs can attend only by invitation – usually when a capability related to their service is to be discussed. An inevitable result of the balance of interests in the DCC is that budgetary rather than requirement considerations are the driving factors. Since the DCC bases its long term decision making on forecasts of future defense budgets, the result is frustrating for military officers (the author having suffered through this process) as the DCC makes decisions based on what it thinks can be afforded rather than what military advisors suggest is needed. Brigadier Jim Wallace resigned his commission as a result of this frustration. See Jim Wallace, "Reforming Defence," Defender, 29, no.2, (Winter 2002): 32.

<sup>48</sup> James, 32.

<sup>49</sup> Malcolm Kennedy, "The ADF – A Plaything for Politicians," Defender, 29, no.3, (Spring 2002): 3.

<sup>50</sup> Richard Butler, "War – Only for the Right Reasons," The Bulletin, 31 July 2002. Available from <http://bulletin.ninemsn.com.au/bulletin/eddesk.nsf/All/3A1EA90E2649D7DECA256BFF000232FD>; Internet; accessed 23 November 2002.

<sup>51</sup> Laurie Oakes, "Interview – General Peter Cosgrove," Channel Nine Sunday Program, 4 August 2002. Available from [http://sunday.ninemsn.com.au/sunday/political\\_transcripts/article\\_1120.asp](http://sunday.ninemsn.com.au/sunday/political_transcripts/article_1120.asp); Internet; accessed 23 November 2002.

<sup>52</sup> Nick Jans, "Rich organisation, poor organisation: defence performance and military leadership," The Australian Defence Force Journal, no.142, (May-June 2000): 6.

<sup>53</sup> For most officers, this would include four years of initial officer training, six months of basic and later advanced corps specific training, one year at Command and Staff College, one year undertaking specialist training and one year at the Australian Defence College or an overseas War College. A further dozen or so skills courses of one to two months duration would also be undertaken during an officer's career. Many officers at the rank of O6 hold a post graduate degree in a national security related discipline.

<sup>54</sup> The most that could be said about ADF political preferences is that voting in electorates with a large military presence favors the conservative parties. (See Jenelle Bonner, "The Politics of Defence in Australia," Working Paper No 68, Australian Defence Studies Centre, July 2001, for a brief discussion of the relationship between Defence and marginal seats) This explains the pressure the current Government placed on Defence prior to the November 2001 election to ensure that soldiers deployed to Timor would be given an opportunity to vote.

<sup>55</sup> The role of the Government in influencing the selection of the Swedish firm Kokums, in partnership with a specially created Australian company, to construct the Collins class submarine in Adelaide is shrouded in controversy. The result has been cost overruns of hundreds of millions of dollars.

<sup>56</sup> Military and civilian officers of one star rank and above.

<sup>57</sup> Peter Reith, Minister for Defence, Defence Senior Leadership Summit, Canberra, 11 February 2001.

<sup>58</sup> Smith, 40.

<sup>59</sup> Ibid., 39.

<sup>60</sup> Colonel Craig Orme, Director Senior Officer Postings, HQADF, in an email to the author dated 28 August 2002.

<sup>61</sup> The next section will discuss the inappropriateness of military officers leaking information. However, an element of hypocrisy exists. On the evening of 6 October 2001 news of the interception of SIEV 4 was leaked to the media only hours after it occurred. Given this leak was of significant benefit to the Government in an election campaign, and of no benefit to anyone else with knowledge of the incident, it might be assumed that the leak came from the Minister's office.

<sup>62</sup> This trend seems to be almost inversely proportional to the number of officers gaining tertiary qualifications. The phenomenon is beyond the scope of this paper to address. Suffice to raise the concern that as the officer corps becomes better and more broadly educated, it is apparently contributing less and less to the development of the military profession. I suspect that this is one of many third order effects emanating from the drive toward corporatization of ADF culture.

<sup>63</sup> See, for example, Derek Woolner, "Getting in early: Lessons of the Collins Submarine Program for Improved Oversight of Defence Procurement," Research Paper No 3 (2001-02), Australian Parliamentary Library, Canberra, 18 September 2001, 56-62.

<sup>64</sup> Malcolm K. McIntosh and John B. Prescott, Report to The Minister for Defence on the Collins Class Submarine and Related Matters, Commonwealth of Australia, Canberra, 20 June 1999.

<sup>65</sup> The author was present, as Acting Director General Land Development, at this briefing.

<sup>66</sup> The Singapore strategy turned out to be as flawed as the Army leadership had argued. Tragically, its implementation led to the loss of a complete Australian Army division.

<sup>67</sup> Wallace, 32.

<sup>68</sup> Peter Feaver, "Crisis as shirking: An Agency Theory Explanation of the Souring of American Civil-Military Relations," *Armed Forces and Society*, 24, no.3, (Spring 1998): 407-434.

<sup>69</sup> McIntosh and Prescott, 7.

<sup>70</sup> Mark Davis, "Australia's East Timor Secret," *SBS Dateline*, 9 May 2001. Available from <http://www.tip.net.au/~wildwood/01maysbs.htm>; Internet; accessed 28 December 2002.

<sup>71</sup> Senate Foreign Affairs, Defence and Trade Legislation Committee; Budget Estimates Hearing, 4 June 2001, 33-37. Available from <http://www.aph.gov.au/hansard/senate/commtee/s4918.pdf>; Internet; accessed 28 December 2002.

<sup>72</sup> Society rightly holds the military to a higher standard of behavior than the civil authority. The danger is that this could lead to development of officers with a self-righteous sense of being superior to the society they serve. See Stiehm, "Civil-military relations in War College curricula," for a discussion of this problem in the United States military.

<sup>73</sup> Wallace, 32.

<sup>74</sup> Smith, 42.

<sup>75</sup> *Ibid.*, 38.

<sup>76</sup> Malcolm Kennedy, "The Abuse of the Power of Office," *Defender*, 29, no.2, (Winter 2002): 4.

<sup>77</sup> Hawke, "What's the Matter – A Due Diligence Report."

<sup>78</sup> Allan Hawke. "A Public Sector Performance Framework – The Defence Model," speech to the PSMPC SES Breakfast, 18 April 2001, Canberra, ACT. Available from <http://www.defence.gov.au/secretary>; Internet; accessed 24 November 2002.

<sup>79</sup> Bland, "A Unified Theory of Civil-Military Relations," 8.

<sup>80</sup> Drawn from a discussion of the rationale for a Parliamentary code of conduct by Dr Andrew Brien in "A Code of Conduct for Parliamentarians?" *Australian Parliament Research Paper No2* (1998-99), 14 September 1998. Available from <http://www.aph.gov.au/library/pubs/rp/1998-99/99rp02.htm>; Internet; accessed 10 November 2002.

<sup>81</sup> This rule in particular highlights the aspirational nature of such guidelines in the complex environment of practical civil-military relationships. There will be occasions in which Government policy is so contrary to professional military advice, and the consequences so

dangerous to national interest, that a military officer's loyalty to the Australian people demands a public statement. Judgment, based on sound civil-military relationships, will be the only guide in these circumstances. The establishment of an independent Inspector General to allow a mechanism for whistle blowing on matters of concern but less import will be necessary.

<sup>82</sup> James, 16.

<sup>83</sup> As he was famously described by journalist Laurie Oakes in a question during the 27 February 2002 press conference in which the CDF admitted that Defence had known for months that no child had been thrown overboard from SIEV 4.





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